## IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF TEXAS

## TYLER DIVISION

ROSS WAYNE NIX, #434025 §

VS. § CIVIL ACTION NO. 6:15cv947

BOARD OF PARDONS AND PAROLES §

## ORDER OF DISMISSAL

Relator Ross Wayne Nix, an inmate confined at the Wynne Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered petition for a writ of mandamus. The lawsuit was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Nix has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Nix, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Nix are without merit. It is specifically noted that Nix has a history of abuse of court. He has accumulated more than "three strikes" for purposes of § 1915(g). The facts as alleged in the present lawsuit do not give rise to an inference that he was under imminent danger of serious physical injury at the time he filed the lawsuit and his application to proceed *in forma pauperis*; thus, the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings. Nix's objections and arguments to the contrary lack

merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the

findings and conclusions of the Court. It is accordingly

**ORDERED** that the Report and Recommendation (docket entry #10) is **ADOPTED**. It is

further

**ORDERED** that the lawsuit is **DISMISSED** with prejudice for purposes of *in forma pauperis* 

proceedings pursuant to 28 U.S.C. § 1915(g). It is further

**ORDERED** that Nix's motion for leave to proceed in forma pauperis (docket entry #8) is

**DENIED**. It is further

**ORDERED** that Nix may resume the lawsuit if he pays the entire filing fee of \$400 within

thirty days after the entry of the final judgment. Nix is warned, however, that the lawsuit may be

dismissed as frivolous if he timely pays the full filing fee. It is finally

**ORDERED** that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 6th day of January, 2016.

Muchael HChrisos MICHAEL H. SCHNEIDER

UNITED STATES DISTRICT JUDGE

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